

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

BON SECOURS MERCY HEALTH PETERSBURG
LLC D/B/A SOUTHSIDE REGIONAL MEDICAL
CENTER

and

Case 05-CA-274949

(b) (6), (b) (7)(C) AN INDIVIDUAL

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by **(b) (6), (b) (7)(C)** an Individual (the Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Bon Secours Mercy Health Petersburg LLC d/b/a Southside Regional Medical Center (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on March 31, 2021, and a copy was served on Respondent by U.S. mail on the same day.

(b) The first amended charge in this proceeding was filed by the Charging Party on July 25, 2022, and a copy was served on Respondent by U.S. mail on July 28, 2022.

2. (a) At all material times, Respondent, a limited liability company with an office and place of business in Petersburg, Virginia (Respondent's facility), has been engaged in providing short-term acute medical care to the general public.

(b) In conducting its operations during the 12-month period ending March 31, 2023, Respondent derived gross revenues in excess of \$250,000.

(c) During the period described above in paragraph 2(b), Respondent purchased and received products, goods, and materials valued in excess of \$5,000 directly from points outside the Commonwealth of Virginia.

(d) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and has been a health care institution within the meaning of Section 2(14) of the Act.

3. At all material times, the following individuals held the positions set forth opposite their names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents within the meaning of Section 2(13) of the Act.

(a)	(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
(b)		-	
(c)		-	
(d)		-	
(e)		-	

4. About November 2020, through about March 2021, the Charging Party engaged in concerted activity with other employees for the purpose of mutual aid and protection by discussing terms and conditions of employment with other employees.

5. About February 2021, Respondent, by (b) (6), (b) (7)(C), by e-mail, telephone, and text message, promulgated and since then has maintained a rule that Respondent considers employee pay as confidential information.

6. About February 11, 2021, Respondent, by (b) (6), (b) (7)(C), by e-mail, told employees to e-mail Respondent with their recollections of discussions about employees' pay.

7. About February 15, 2021, Respondent, by (b) (6), (b) (7)(C), by telephone and text message:

(a) told employees to submit in writing to Respondent their recollections of discussions about employees' pay; and

(b) interrogated employees about their protected concerted activities.

8. About February 22, 2021, Respondent, by (b) (6), (b) (7)(C), by telephone:

(a) told employees that pay is confidential and cannot be discussed with others; and

(b) interrogated employees about their protected concerted activities.

9. (a) About (b) (6), (b) (7)(C) 2021, Respondent discharged the Charging Party.

(b) Respondent engaged in the conduct described above in paragraph 9(a) because the Charging Party engaged in the conduct described above in paragraph 4, and to discourage employees from engaging in these or other concerted activities.

10. By the conduct described above in paragraphs 5 through 9, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

REMEDY

As part of the remedy for the unfair labor practices alleged above, the General Counsel seeks an Order requiring that Respondent promptly electronically post and distribute the Notice to Employees via electronic mail, text message, and intranet, consistent with Respondent's normal method of communicating with its employees.

As part of the remedy for the unfair labor practices alleged above in paragraphs 9 and 10, the General Counsel seeks an Order requiring that Respondent: (1) reimburse the Charging Party for reasonable consequential damages incurred as a result of Respondent's unlawful conduct; and (2) make the Charging Party whole, in the event (b) (6), (b) (7)(C) declines reinstatement, including but not

limited to, payment of front pay for a reasonable period following any decision by the Charging Party to decline a valid offer of reinstatement.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before April 19, 2023.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue

to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on August 8, 2023, at 10:00 a.m., at a place to be determined, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated at Baltimore, Maryland this 5th day of April 2023.

(SEAL)

/s/ *Sean R. Marshall*

Sean R. Marshall, Regional Director
National Labor Relations Board, Region 05
Bank of America Center, Tower II
100 S. Charles Street, Ste. 600
Baltimore, MD 21201

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 05-CA-274949

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

Bon Secours Mercy Health Petersburg LLC
d/b/a Southside Regional Medical Center
200 Medical Park Boulevard

Petersburg, VA 23805

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(b) (6), (b) (7)(C)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility

of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

**EL MILAGRO, INC.
EL MILAGRO, LLC**

and

ARISE CHICAGO WORKER CENTER

**Cases: 13-CA-283759
13-CA-284828
13-CA-304894**

**ORDER CONSOLIDATING CASES, CONSOLIDATED COMPLAINT
AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 13-CA-283759, Case 13-CA-284828 and Case 13-CA-304894, which are based on charges filed by Arise Chicago Worker Center (Charging Party), against El Milagro, Inc./El Milagro, LLC (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that El Milagro, Inc./El Milagro, LLC (Respondent) has violated the Act as described below.

I

(a) The charge in case 13-CA-283759 was filed by the Charging Party on September 30, 2021, and a copy was served on Respondent by U.S. Mail on September 30, 2021.

(b) The first amended charge in case 13-CA-283759 was filed by the Charging Party on February 14, 2023, and a copy was served on Respondent by U.S. Mail on February 15, 2023.

(c) The charge in case 13-CA-284828 was filed by the Charging Party on October 19, 2021, and a copy was served on Respondent by U.S. Mail on October 21, 2021.

(d) The first amended charge in case 13-CA-284828 was filed by the Charging Party on November 2, 2021, and a copy was served on Respondent by U.S. Mail on November 3, 2021.

(e) The second amended charge in case 13-CA-284828 was filed by the Charging Party on February 14, 2023, and a copy was served on Respondent by U.S. Mail on February 15, 2023.

(f) The charge in case 13-CA-304894 was filed by the Charging Party on October 6,

2022, and a copy was served on Respondent by U.S. Mail on October 11, 2022.

(g) The first amended charge in case 13-CA-304894 as filed by the Charging Party on December 8, 2022, and a copy was served on Respondent by U.S. Mail on December 9, 2022.

II

(a) At all material times, Respondent has been an Illinois corporation with facilities and offices located at 3050 W 26th Street, Chicago, IL (Respondent's 26th Street facility), 2154 S Western Ave., Chicago, IL (Respondent's 21st Street facility), 2759 S Kedzie Ave., Chicago, IL (Respondent's Kedzie facility), 3120 W 36th Street, Chicago, IL (Respondent's 36th Street facility), 2919 S Western Ave., Chicago, IL (Respondent's 31st Street facility), 2400 W 21st Pl, Chicago, IL (Respondent's 21st Place facility), 3110 W 28th St, Chicago, IL (Respondent's 28th Street facility), 7501 W Cermak Rd #Vc2, North Riverside, IL (Respondent's Cermak facility, 1923 S Blue Island Ave, Chicago, IL (Respondent's Blue Island facility) and has been engaged in the production and sale of tortillas and food products.

(b) During the preceding twelve months, a representative period, Respondent, in conducting business operations described above in paragraph II (a), purchased and received goods and materials valued in excess of \$50,000 directly from points outside the State of Illinois.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

III

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
	-	
	-	

(b) At all material times, (b) (6), (b) (7)(C) held the position of Respondent's (b) (6), (b) (7)(C) and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

IV

(a) About September of 2021, the exact date being unknown, Respondent, at Respondent's 21st Street facility, 31st Street facility and 36th Street facility, has held mandatory meetings for its employees during their working time to listen to Respondent's unsolicited views on employees' protected concerted and/or union activities and to discourage such activity.

(b) About October 2021, the exact date being unknown, Respondent, at Respondent's 26th Street facility, has held mandatory meetings for its employees during their working time to listen to Respondent's unsolicited views on employees' protected concerted and/or union activities and to discourage such activity.

(c) About November and December 2021, the exact date being unknown, Respondent, at Respondent's Kedzie facility has held mandatory meetings for its employees during their working time to listen to Respondent's unsolicited views on employees' protected concerted and/or union activities and to discourage such activity.

(d) About September 2021, Respondent, by (b) (6), (b) (7)(C), at mandatory meetings at the 31st Street facility and 21st Street facility as described above in paragraph IV (a):

- (i) Interfered with employees Section 7 rights by telling them they do not need outside groups and instructed them to not seek help or sign anything from outside organizations.
- (ii) Threatened employees with loss of vacation or other benefits if they continued to engage in protected concerted activities.
- (iii) Interfered with employees Section 7 rights by telling them they should not bring in a union.
- (iv) Made an implied threat of closure to employees if they continued to engage in protected, concerted activities.
- (v) Threatened employees with (b) (6), (b) (7)(C) in response to their protected concerted activity by telling them employees would be (b) (6), (b) (7)(C) and employees would lose their jobs.

(e) About September 2021, Respondent, by (b) (6), (b) (7)(C), at the Kedzie facility:

- (i) Threatened employees with unspecified reprisals if they continued to refer people to Charging Party.
- (ii) Interfered with employees Section 7 rights by instructing them to refrain from engaging the protected concerted activity of referring people to Charging Party.

(f) About September of 2021, Respondent, by (b) (6), (b) (7)(C), at the 31st Street facility, by sitting in a room overlooking the break room and work floor, created an impression among its employees that their protected, concerted activities were under surveillance by Respondent.

(g) Respondent, by (b) (6), (b) (7)(C), about October 2021, at a mandatory meeting at the 26th Street facility as described above in paragraph IV (b), threatened to (b) (6), (b) (7)(C) if employees went to (b) (6), (b) (7)(C) for assistance.

(h) About September and October of 2021, the exact date being unknown, Respondent, in response to employees engaging in protected, concerted activities, increased security guard presence at its facilities listed below and as described above in paragraph II (a).

- (i) Respondent's 26th Street facility
- (ii) Respondent's 21st Street facility
- (iii) Respondent's Kedzie facility
- (iv) Respondent's 36th Street facility
- (v) Respondent's 31st Street facility

(i) About November or December 2021, the exact date being unknown, Respondent, by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), at mandatory meetings at the Kedzie facility, interfered with employees Section 7 rights by telling them they should not bring in a union.

(j) About August of 2022, Respondent, by its immigration attorney at the 31st Street facility, made an implied threat of discharge and interfered with employees Section 7 rights by telling them Respondent would have to think about keeping an employee (b) (6), (b) (7)(C)

(k) About September of 2022, Respondent, by its immigration attorney at the 31st Street facility, interfered with employees Section 7 rights by telling employees it was futile to engage in protected concerted activity (b) (6), (b) (7)(C) by speaking to Charging Party.

V

(a) By the conduct described above in paragraph IV, Respondent has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

(b) The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

WHEREFORE, as part of the remedy for the unfair labor practices alleged above in paragraph IV, the General Counsel seeks an Order requiring Respondent to hold a meeting or meetings with Respondent's employees, scheduled to ensure the widest possible attendance on each shift and at each location described above in paragraph II(a), at which a responsible management official of the Respondent will read the Notice in English and Spanish to employees on work time in the presence of a Board Agent and representatives from the Charging Party. The General Counsel further seeks all relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before April 5, 2023, or postmarked on or before April 4, 2023.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the

detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **July 17, 2023, 10:00am at 219 South Dearborn, Suite 808, Chicago, IL 60604**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: March 22, 2023

/s/ **Angie Cowan Hamada**

Angie Cowan Hamada
Regional Director
National Labor Relations Board
Region 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-283759

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)
El Milagro, LLC
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elmilagro@el-milagro.com

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Procedures in NLRB Unfair Labor Practice Hearings

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The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

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The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

SAINT JOSEPH HEALTH SYSTEM, INC.
D/B/A CHI SAINT JOSEPH HEALTH –
SAINT JOSEPH LONDON

and

Case 09-CA-297427

UNITED FOOD AND COMMERCIAL
WORKERS, LOCAL 227

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by United Food and Commercial Workers, Local 227 (Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Saint Joseph Health System, Inc. d/b/a CHI Saint Joseph Health – Saint Joseph London (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Union on June 10, 2022, and a copy was served on Respondent by U.S. mail on the same date.

(b) The amended charge in this proceeding was filed by the Union on March 6, 2023, and a copy was served on Respondent by U.S. mail on the same date.

2. (a) At all material times, Respondent has been a corporation with an office and place of business in London, Kentucky (Respondent's facility), where it has been engaged in operating an acute care hospital providing inpatient and outpatient medical care.

(b) About June 7, 2022, Respondent assumed the food service operation of SDH Services East, LLC, a subsidiary of Sodexo, Inc. (Sodexo) at Respondent's facility, and since then has continued to operate the business of Sodexo at its facility in basically unchanged form, and has

employed as a majority of its food service employees individuals who were previously employees of Sodexo.

(c) Based on its operations described above in paragraph 2(b), Respondent has continued the employing entity and is a successor to Sodexo regarding its food service operation.

(d) In conducting its operations, described above in paragraphs 2(a) through (c), during the 12-month period ending February 1, 2023, Respondent derived gross revenues in excess of \$250,000, and purchased and received at Respondent's facility goods valued in excess of \$5,000 directly from points outside the Commonwealth of Kentucky.

(e) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

3. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
	-	
	-	

5. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time food service employees, employed in the food service operation at Saint Joseph London Hospital, 1001 Saint Joseph Lane, London, Kentucky; but excluding all other employees, confidential employees, office clerical employees, temporary employees, and all professional employees, guards and supervisors as defined in the Act.

(b) On August 8, 2019, the Union was certified as the exclusive collective-bargaining representative of the Unit employed by Sodexo.

(c) Since about June 7, 2022, based on the facts described above in paragraphs 2(a), 2(b) and 5(b), the Union has been the designated exclusive collective-bargaining representative of the Unit.

(d) From about August 8, 2019 to June 7, 2022, based on Section 9(a) of the Act, the Union had been the exclusive collective-bargaining representative of the Unit employed by Sodexo.

(e) At all times since about June 7, 2022, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of Respondent's employees in the Unit.

6. (a) About June 7, 2022, Respondent made changes to the pay, work schedules, medical benefits and other terms and conditions of employment of the Unit, all of which are unknown to the General Counsel but within Respondent's specific knowledge.

(b) The subjects set forth above in paragraph 6(a) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(c) Respondent engaged in the conduct described above in paragraph 6(a) without prior notice to the Union, without affording the Union an opportunity to bargain with Respondent with respect to this conduct and without first bargaining with the Union to an overall good-faith impasse for a successor collective-bargaining agreement.

7. (a) About June 9, 2022, the Union, by letter sent via e-mail, requested that Respondent recognize it as the exclusive collective-bargaining representative of the Unit.

(b) Since about June 10, 2022, Respondent has failed and refused to recognize the Union as the exclusive collective-bargaining representative of the Unit.

8. By the conduct described above in paragraphs 6(a), 6(c) and 7(b), Respondent has been failing and refusing to bargain collectively with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

9. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

WHEREFORE, As part of the remedy for the unfair labor practices alleged above in paragraphs 6 and 7, the General Counsel seeks an Order requiring that at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative read the notice to the employees during worktime in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the notice to employees during worktime in the presence of Respondent's supervisors and agents identified above in paragraph 4.

FURTHERMORE, as part of the remedy for the unfair labor practices alleged above in paragraph 6, the General Counsel seeks an Order requiring that Respondent make whole Unit employees for any losses they may have suffered as a result of the changes to their terms and conditions of employment alleged in paragraph 6(a).

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office**

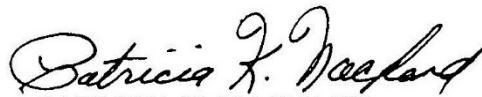
on or before April 10, 2023 or postmarked on or before April 9, 2023. Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by Zoom in a manner (including via video conference technology) or at a location otherwise ordered by the Administrative Law Judge the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **July 25, 2023, 10 a.m.** at a place to be hereinafter scheduled in **London, Kentucky**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: March 27, 2023

A handwritten signature in black ink, reading "Patricia K. Nachand". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Patricia K. Nachand, Acting Regional Director
Region 9, National Labor Relations Board
Room 3-111, John Weld Peck Federal Building
550 Main Street
Cincinnati, Ohio 45202-3271

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 09-CA-297427

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C) CommonSpirit Health, 1001 St. Joseph Ln.,
London, KY 40741

Christopher T. Scanlan, Attorney, CommonSpirit Health, 185 Berry Street, #300,
San Francisco, CA 94107

Joseph C. Torres, Attorney, The Karmel Law Firm, 20 South Clark Str., Suite 1720,
Chicago, IL 60603

United Food and Commercial Workers, Local 227, 3330 Pinecroft Drive, Louisville, KY 40219-3011

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlrb.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlrb.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

ARK FABRICATORS, INC.

and

Case 10-CA-291560

**GEORGIA CAROLINA PIPE TRADES
ASSOCIATION a/w THE UNITED ASSOCIATION
OF JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPE FITTING INDUSTRY OF
THE UNITED STATES AND CANADA, AFL-CIO**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Georgia Carolina Pipe Trades Association a/w The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that ARK Fabricators, Inc. (Respondent) has violated the Act as described below.

1.

The Union filed the charge in this proceeding on March 2, 2022, and a copy was served on Respondent by U.S. mail on March 3, 2022.

2.

(a) At all material times, Respondent has been a corporation providing pipefitting, welding, and mechanical contract services, with a place of business in Savannah, Georgia.

(b) During the calendar year ending December 31, 2022, Respondent, in conducting its operations described in above paragraph 2(a), purchased and received at its Savannah, Georgia facility goods valued in excess of \$50,000 directly from points outside the State of Georgia.

(c) At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3.

At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

4.

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

(a)	(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
(b)		-	

5.

About February 1, 2022, Respondent was hiring, or had concrete plans to hire pipefitters and pipe welders.

6.

(a) Since February 1, 2022, Respondent refused to hire and/or refused to consider for hire (b) (6), (b) (7)(C).

(b) Since February 1, 2022, Respondent refused to hire and/or refused to consider for hire (b) (6), (b) (7)(C).

(c) Since February 1, 2022, Respondent refused to hire and/or refused to consider for hire (b) (6), (b) (7)(C).

(d) Respondent engaged in the conduct described above in subparagraphs (b) through (d) because the named employees joined and assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

7.

By the conduct described above in paragraph 6, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

8.

The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDIES

The General Counsel seeks an Order providing for all relief as may be just and proper to remedy the unfair labor practices alleged, including, but not limited to, that Respondent electronically distribute the Notice to Employees to all employees, who are or have been employed by Respondent since February 1, 2022, by text messaging, posting on social media websites, and posting on internal apps, if the Respondent communicates with its employees by such means.

In order to fully remedy the unfair labor practices described above, the General Counsel seeks an Order requiring Respondent to include, for a period of six months, a prominent statement at the beginning of its job applications for pipefitting, welding, and mechanical positions, and on all of its advertisements for such positions including electronic advertisements, the following statement: "ARK Fabricators, Inc. is required to comply with the National Labor Relations Act. Therefore, we will recruit and refer any and all applicants without regard to their involvement with, membership in, or allegiance to any union. We acknowledge the right of employees to form, join, or assist unions of their own choosing, or to refrain from such activities."

The General Counsel also seeks an Order requiring that Respondent draft and send letters to each of the discriminatees listed above in paragraph 6 apologizing to them for Respondent's refusal to consider for hire or hire them and any hardship or distress it caused and requiring Respondent to provide a copy of each letter to the Regional Director within 14 days of distribution.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before April 5, 2023, or postmarked on or before April 4, 2023.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file

containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **Tuesday, August 8, 2023, at 10:00 AM Eastern Time at a location to be determined in Savannah, GA**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: March 22, 2023



Shannon R. Meares
Acting Regional Director
National Labor Relations Board
Region 10
401 W Peachtree St NE Ste 472
Atlanta, GA 30308

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 10-CA-291560

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Nathan Colarusso, Assistant General Counsel
Quality Plus Services, Inc.
2929 Quality Dr
Petersburg, VA 23805

Kathleen Bichner, Esquire
National Union of Hospital and Health Care
Employees
325 Chestnut St Ste 600
Philadelphia, PA 19106

(b) (6), (b) (7)(C)

ARK Fabricators, LLC
2511 W Bay St
Savannah, GA 31408

Georgia Carolina Pipe Trades Association
2556 Oscar Johnson Dr
North Charleston, SC 29405

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 31**

**MONTECITO HEIGHTS HEALTHCARE
& WELLNESS CENTRE**

and

**SERVICE EMPLOYEES INTERNATIONAL
UNION, LOCAL 2015**

**Cases 31-CA-294287
31-CA-301876
31-CA-302548
31-CA-306039
31-CA-310531**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 31-CA-294287, 31-CA-301876, 31-CA-302548, 31-CA-306039, and 31-CA-310531, which are based on charges filed by Service Employees International Union, Local 2015 (Union) against Montecito Heights Healthcare & Wellness Centre, whose correct name is Montecito Heights Healthcare & Wellness Centre, LP (Respondent) are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below.

1. The charges in the above cases were filed by the Union, as set forth in the following table, and served upon the Respondent on the dates indicated by U.S. Mail:

Case No.	Amendment	Date Filed	Date Served
31-CA-294287	N/A	April 18, 2022	April 19, 2022
31-CA-301876	N/A	August 17, 2022	August 23, 2022
31-CA-301876	First Amended	January 24, 2023	January 26, 2023
31-CA-302548	N/A	August 31, 2022	September 1, 2022
31-CA-306039	N/A	October 26, 2022	October 27, 2022
31-CA-310531	N/A	January 17, 2023	January 19, 2023

2. (a) At all material times, Respondent has been a California limited partnership with an office and place of business in Los Angeles, California, (Respondent's facility) and has been engaged in the operation of a nursing home.

(b) In conducting its operations during the 12-month period ending July 22, 2022, Respondent derived gross revenues in excess of \$100,000.

(c) During the period of time described above in paragraph 2(b), Respondent purchased and received at its California location goods, supplies and materials valued in excess of \$5,000 directly from enterprises located outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and has been a health care institution within the meaning of Section 2(14) of the Act.

4. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

5. (a) At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of

the Section 2(11) of the Act and/or agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
	-	

(b) At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)	-	(b) (6), (b) (7)(C)
	-	

6. Respondent, by (b) (6), (b) (7)(C) interpreting from English to Spanish, in (b) (6), (b) (7)(C) :

(a) On a Wednesday in about February 2022, promised its employees a wage increase if employees rejected the Union as their collective bargaining representative.

(b) On a Wednesday in about February 2022, interrogated its employees about their union sympathies.

(c) On a Thursday in about February 2022, promised its employees a wage increase if employees rejected the Union as their collective bargaining representative.

(d) On a Thursday in about February 2022, interrogated employees about their union sympathies.

7. Respondent, by the individuals named below, about the dates and at the locations opposite their names, held mandatory or effectively mandatory captive-audience meetings in order to discourage union activity:

Agent	Date	Location
(a) (b) (6), (b) (7)(C)	On a Wednesday in about February 2022	(b) (6), (b) (7)(C)
(b) (b) (6), (b) (7)(C)	On a Thursday in about February 2022	(b) (6), (b) (7)(C)
(c) (b) (6), (b) (7)(C)	July 25, 2022	Kitchen
(d) (b) (6), (b) (7)(C)	July 25, 2022	Activities Room/Dining Room
(e) (b) (6), (b) (7)(C)	Late July 2022	Activities Room/Dining Room

8. About July 25, 2022, Respondent, by (b) (6), (b) (7)(C) interpreting from English to Spanish, in the activity/dining room, made a coercive statement to employees by saying that (b) (6) would answer the door naked and with a shotgun if Union representatives visited (b) (6), (b) (7)(C) at home.

9. Respondent, by (b) (6), (b) (7)(C):

(a) Within a week after July 25, 2022, in the activities room, by telling employees that (b) (6) found out people had told the Union what (b) (6) had said, that (b) (6) finds out everything, and that there are no secrets from (b) (6), (b) (7)(C), created an impression among its employees that their union activities were under surveillance by Respondent.

(b) About July 29, 2022, in the Employer's facility, announced a wage increase before a decertification election held on August 5, 2022.

10. (a) The following employees of Respondent (the Unit) constitute a unit appropriate for the purposes of collective bargaining withing the meaning of Section 9(b) of the Act:

Included: All regular full-time, regular part-time, and per diem employees in nonsupervisory classifications, including the following classifications: Certified Nurse Assistant, Restorative Nursing Assistant, Nursing Assistant, Cook, Dietary Aide, Laundry Aide, and Housekeeper.

Excluded: All registered nurses, licensed vocational nurses, confidential employees, professional employees, guards, and supervisors, as defined in the National Labor Relations Act.

(b) Since at least July 1, 2019, and at all material times, Respondent has recognized the Union as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in a collective-bargaining agreement, effective from July 1, 2019, to June 30, 2022.

(c) At all material times since at least July 1, 2019, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the Unit.

11. (a) About August 1, 2022, Respondent unilaterally implemented wage increases for employees in the Unit.

(b) About (b) (6), (b) (7)(C) 2022, Respondent reduced employee (b) (6), (b) (7)(C) work hours by 30 minutes per day.

(c) About (b) (6), (b) (7)(C) 2022, Respondent changed employee (b) (6), (b) (7)(C) work schedule.

12. Respondent engaged in the conduct described above in paragraphs 11(b)-(c) because employees of Respondent formed, joined, or assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

13. (a) The subjects set forth above in paragraphs 11(a)-(c) relate to wages, hours, and other terms and conditions of employment of the Unit and are mandatory subjects for the purposes of collective bargaining.

(b) Respondent engaged in the conduct described above in paragraphs 11(a)-(c) without prior notice to the Union and without affording the Union an opportunity to bargain with Respondent with respect to this conduct and/or the effects of this conduct.

14. By the conduct described above in paragraphs 6 through and including 9, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

15. By the conduct described above in paragraphs 11(b), 11(c), and 12, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

16. By the conduct described above in paragraphs 11(a), 11(b), 11(c), and 13, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

17. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

WHEREFORE, in order to fully remedy the unfair labor practices alleged in paragraphs 6-9 and 11-13, the General Counsel seeks an Order requiring Respondent to:

i) Post the Notice to Employees in both English and Spanish to ensure that all employees affected by the unfair labor practices alleged herein are able to understand the Notice. The posting of the Notice in Spanish and English is necessary since approximately 10 percent of the workforce have limited English proficiency and are Spanish speakers.

ii) Hold a meeting or meetings scheduled to ensure the widest possible attendance, at which Respondent's (b) (6), (b) (7)(C) reads the notice to the employees in English and Spanish on worktime in the presence of a Board agent. Alternatively, the General Counsel seeks

an order requiring that Respondent promptly have a Board agent read the notice to employees during worktime in the presence of Respondent's supervisors and agents identified above in paragraph 5(a). Each employee present at any meeting at which the Notice is to be read shall be provided a copy of the Notice in either English or Spanish before it is read aloud.

iii) Within 60 days of the issuance of a Board Order, permit a Board Agent to conduct a training on the National Labor Relations Act and unfair labor practices for all management officials and supervisors employed by Respondent. This training will take place either in person or via a videoconference platform, at the General Counsel's discretion. The date, time, and manner of the training must be approved by the General Counsel. The General Counsel will determine the curriculum for the training.

The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. **The answer must be received by this office on or before April 14, 2023, or postmarked on or before April 13, 2023.** Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to

receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **Tuesday, June 27, 2023**, at 9:00 a.m., at **Region 31 of the National Labor Relations Board, 11500 West Olympic Boulevard, Suite 600, Los Angeles, CA 90064**, in an available hearing room, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be

followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: March 31, 2023

A handwritten signature in black ink, reading "Danielle M. Pierce", is positioned above a horizontal line.

Danielle Pierce, Acting Regional Director
National Labor Relations Board, Region 31
11500 West Olympic Blvd, Suite 600
Los Angeles, CA 90064-1753

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Cases 31-CA-294287, et al.

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

Montecito Heights Healthcare
& Wellness Centre, LP
4585 North Figueroa Street
Los Angeles, CA 90065

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Seyfarth Shaw LLP
233 South Wacker Drive, Suite 8000
Chicago, IL 60606

Service Employees International
Union, Local 2015
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Kamran Mirrafati, Esq.
Seyfarth Shaw LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067

Manuel A. Boigues, Esq.
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608-2609

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

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